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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

This Document Relates to:

ALL ACTIONS

Case No. 3:23-md-03084-CRB

**DEFENDANTS UBER TECHNOLOGIES,
INC., RASIER, LLC, RASIER-CA, LLC'S
STATEMENT IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE
MOTIONS TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIALS
SHOULD BE SEALED [ECF Nos. 2088
AND 2090]**

Judge: Hon. Lisa J. Cisneros
Courtroom: G – 15th Floor

DEFENDANTS' STATEMENT IN SUPPORT OF SEALING**CONFIDENTIAL MATERIALS**

Pursuant to Civil Local Rules 79-5(f)(3) and (c)(1) and the Protective Order entered in this case dated December 28, 2023, ECF 176 ("Protective Order"), Defendants Uber Technologies, Inc., Rasier, LLC, Rasier-CA, LLC (collectively "Uber"), respectfully submit this statement in support of Plaintiffs' Administrative Motions to Consider Whether Another Party's Material Should Be Filed Under Seal, dated January 15, 2025, ECF 2088 and 2090 ("Plaintiffs' Motion(s)").

I. BACKGROUND AND REQUESTED SEALING

Plaintiffs' Motions concern three documents:

Document	Description	Designating Party
Portions of Ex. A to Ellis Declaration ISO Joint Discovery Letter re: Tranche 2 Random Selection Privilege Disputes (ECF 2089-1, 2089-2)	A chart of entries from a confidential privilege log containing personal email addresses (proposed redactions filed as Exhibit A)	Uber
Portions of Ex. A to Ellis Declaration ISO Joint Discovery Letter re: Tranche 3 Privilege Disputes (ECF 2091-1, 2091-2)	A chart of entries from a confidential privilege log containing personal email addresses and other confidential information (proposed redactions filed as Exhibit B)	Uber
Portions of Joint Discovery Letter Brief re: Tranche 3 Privilege Disputes (ECF 2091)	A joint letter brief containing two redactions of confidential information	Uber

The documents at issue are two exhibits containing entries to a confidential privilege log, and a letter brief containing two redactions. Uber submits redacted versions of the two privilege log exhibits, which were filed under seal (ECF 2089-2; ECF 2091-2), as Attachments A and B to this Statement. The redacted portions of these documents consist of personal identifying information, namely non-public email addresses of Uber employees, and information regarding a confidential pilot program contained in the letter brief and one of the privilege log exhibits. *See* Cummings Decl. ¶¶ 2-5. Disclosure of these documents would harm the privacy interests of these individuals and Uber's competitive standing and legitimate privacy interests. Uber therefore submits this statement

1 requesting that the Court seal the un-redacted versions of the letter brief and exhibits under Local Rule
2 79-5(f)(3).

3 **II. LEGAL STANDARD**

4 Documents which do not relate directly to the merits of a case are properly sealed when a
5 moving party makes “a particularized showing under the good cause standard of Rule 26(c).”
6 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (internal quotations
7 and citations omitted); *see also Ctr. For Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1101-02
8 (9th Cir. 2016). Federal Rule of Civil Procedure 26(c) states that good cause may exist when issuing
9 an order to seal is necessary to “protect a party or person from annoyance, embarrassment, oppression,
10 or undue burden or expense.” Fed. R. Civ. P. 26(c).

11 The documents here are related to briefing on privilege disputes; they are not related to a
12 dispositive motion. *See United States v. Selugh*, 896 F. 3d 1007, 1015 (9th Cir. 2018); *Brown v. Google*
13 *LLC*, 2022 WL 4227545, at *1; *Adtrader, Inc. v. Google LLC*, 2020 WL 6387381 at *1 (N.D. Cal.
14 Feb. 24, 2020). Therefore, the good cause standard applies. Discovery motion materials “are actually
15 one step further removed in public concern from the trial process than the discovery materials
16 themselves.” *Selugh*, 896 F. 3d at 1015. District Courts have discretion to balance the interests of
17 private parties and public disclosure when deciding to seal documents. *Kamakana*, 447 F.3d at 1180.

18 “Courts in this circuit routinely seal email addresses and other personal identifying information
19 under the compelling reasons standard due to the potential privacy harm to the individual whose
20 contact information may be exposed.” *Jones v. PGA Tour, Inc.*, 2023 WL 7434197, at *2 (N.D. Cal.
21 Oct. 5, 2023); *see also In re Pac. Fertility Ctr. Litig.*, 2021 WL 1082843, at *2 (N.D. Cal. Mar. 12,
22 2021) (noting that “there are compelling reasons to seal customer names, ... as well as employee email
23 addresses”). Courts also routinely seal confidential business information under the good cause
24 standard, such as business plans. *See, e.g., Blockchain Innovation, LLC v. Franklin Resources, Inc.*,
25 2024 WL 4394758, at *3 (N.D. Cal. 2024) (sealing documents containing confidential information on
26 “internal business strategy and corporate decisionmaking, as well as internal budgeting and finances”);
27 *Jones v. PGA Tour, Inc.*, 2023 WL 7440303, at *2 (N.D. Cal. 2023) (sealing document containing

confidential information on, among other things, “strategic launch plans; financials; internal decision-making processes”); *Skillz Platform Inc. v. AviaGames Inc.*, 2023 WL 6135556, at *2 (N.D. Cal. 2023) (sealing confidential information such as “internal business plans and propriet[ar]y information about a [party’s] products”).

III. UBER’S MATERIAL SHOULD BE KEPT UNDER SEAL

The documents at issue are two exhibits containing entries from a confidential privilege log, and a letter brief containing two redactions. Uber submits redacted versions of the two privilege log exhibits, which were filed under seal (ECF 2089-2; ECF 2091-2), as Attachments A and B to this Statement. The redacted portions of these documents consist of personal identifying information, namely non-public email addresses of Uber employees, and information in the letter brief and an email subject line in a privilege log exhibit regarding a confidential pilot program. *See Cummings Decl.* ¶¶ 2-5. Uber has a legitimate interest in sealing the un-redacted version of these documents in order to avoid harm to the privacy interests of these individuals and its competitive standing and legitimate privacy interests. There are no less restrictive alternatives to sealing the documents as the documents have already been narrowly redacted. *See id.*

A. Failing to Seal the Documents Would Harm Uber

Portions of Ex. A to Ellis Declaration ISO Joint Discovery Letter re: Tranche 2 Random Selection Privilege Disputes:

This document is an exhibit containing entries to a confidential privilege log. This exhibit was used by Plaintiffs in the joint letter brief on Tranche 2 random selection privilege disputes (ECF 2088, 2089) submitted pursuant to the Court’s December 21, 2024 Order (ECF 2005). The redacted portions of this document in Exhibit A to this filing consist of personal identifying information, namely non-public email addresses of Uber employees. *Jones*, 2023 WL 7434197, at *2; *In re Pac. Fertility Ctr. Litig.*, 2021 WL 1082843, at *2. No other redactions were made to this document. This Court has previously permitted similar redactions of employee addresses on privilege logs. (ECF 2007; ECF 1947)

Portions of Ex. A to Ellis Declaration ISO Joint Discovery Letter re: Tranche 3 Privilege Disputes:

This document is an exhibit containing entries to a confidential privilege log. This exhibit was used by Plaintiffs in the joint letter brief on Tranche 3 privilege disputes (ECF 2090, 2091) submitted pursuant to PTO 20 (ECF 1808) and the Court’s December 21, 2024 Order (ECF 2005). The redacted portions of this document in Exhibit B to this filing consist of personal identifying information, namely non-public email addresses of Uber employees. *Jones*, 2023 WL 7434197, at *2; *In re Pac. Fertility Ctr. Litig.*, 2021 WL 1082843, at *2. This Court has previously permitted similar redactions of employee addresses on privilege logs. (ECF 2007; ECF 1947). Also redacted are the “Document Title”, “File Name”, and “Email Subject” fields (all the same information) for one privilege log entry related to a confidential pilot program. Courts routinely seal confidential business information under the good cause standard, such as business plans. *See, e.g., Blockchain Innovation*, 2024 WL 4394758, at *3; *Jones*, 2023 WL 7440303, at *2; *Skillz Platform*, 2023 WL 6135556, at *2. No other redactions were made to this document.

Portions of Joint Discovery Letter re: Tranche 3 Privilege Disputes:

This document is letter brief on Tranche 3 privilege disputes (ECF 2090, 2091) submitted pursuant to PTO 20 (ECF 1808) and the Court’s December 21, 2024 Order (ECF 2005). The redacted portions of this document (two redactions) consist of references, in Plaintiffs’ argument on one document (JCCP_MDL_PRIVLOG056137), to a confidential pilot program. No other redactions were made to this document.

B. Less Restrictive Alternative to Sealing is Insufficient to Prevent Harm

The documents have already been redacted, and the redacted versions have already been filed on the docket (ECF 2091) or attached to this filing as Exhibit A and Exhibit B. No less restrictive alternative to sealing the documents at issue is sufficient. *See Cummings Decl.* ¶¶ 2-5. Actions short of sealing the documents would not protect the legitimate privacy interests of Uber employees and Uber’s competitive standing and legitimate privacy interests.

1 **IV. CONCLUSION**

2 For the foregoing reasons, Uber respectfully requests that the Court order that the un-redacted
3 versions of the documents listed above be maintained under seal.

4
5 DATED: January 21, 2025

Respectfully submitted,

6 **SHOOK HARDY & BACON L.L.P.**

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